# Bill as Introduced

**CHAPTER 166**

**SB 394-FN - FINAL VERSION**

20april00.....4114h

2000 SESSION

00-2309

01/09

SENATE BILL ***394-FN***

AN ACT making miscellaneous changes in the insurance laws.

SPONSORS: Sen. Fraser, Dist 4

COMMITTEE: Insurance

AMENDED ANALYSIS

This bill:

(1) Makes a technical correction to the law regulating foreign insurance companies.

(2) Clarifies the procedure pertaining to books, records, and other documents when an insurance company is undergoing examination.

(3) Changes the appeal procedure for persons aggrieved under RSA 401-B.

(4) Creates an exemption from certain provisions of RSA 541-A for certain insurance regulations.

(5) Adjusts the salary of the health care statistician.

This bill was requested by the insurance department.

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Explanation: Matter added to current law appears in ***bold italics.***

Matter removed from current law appears [~~in brackets and struckthrough.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

20april00.....4114h

00-2309

01/09

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand*

AN ACT making miscellaneous changes in the insurance laws.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

166:1 Reference Correction. Amend RSA 405:48, III to read as follows:

III. Clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified United States ***financial*** institution, as defined in RSA 405:45, VI, no later than December 31, in the year for which filing is being made, and in the possession of the ceding company on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation shall, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs.

166:2 Documents During Examination. Amend RSA 400-A:37, III(b) to read as follows:

(b)***(1)*** Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate the examination and aid in the examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the commissioner's jurisdiction.

***(2) Neither the commissioner nor any examiner shall remove any record, account, document, file, or other property of the person being examined from the office or place of such person except with the written consent of such person in advance of such removal or pursuant to an order of court duly obtained. This subparagraph shall not be deemed to affect the making and removal of copies or abstracts of any such record, account, document, or file.***

166:3 Appeal Procedure; Insurance Holding Companies. RSA 401-B:14 is repealed and reenacted to read as follows:

401-B:14 Appeal. Any person aggrieved by any act, determination, rule, regulation, or order of any other action of the commissioner pursuant to this chapter may appeal in accordance with RSA 541.

166:4 Deleting Specific Dates and Certain Information. Amend RSA 420-I:4 to read as follows:

420-I:4 Reports to Insurance Commissioner. [~~On or before March 1 and September 1 of each year,~~] Each managed care insurer shall file a report in form and containing such information as the insurance commissioner prescribes ***when requested by the commissioner***. Such report shall include the name of th managed care insurer, its affiliates, a description of each exclusive arrangement to which it is a party and, as applicable, the date on which exclusive arrangement has been or will be terminated.

166:5 New Paragraph; Rulemaking. Amend RSA 541-A:21 by inserting after paragraph V the followin new paragraph:

VI. Rules adopted under title XXXVII, relative to insurance regulation, shall be exempt from the uniform system of numbering and drafting rules required by RSA 541-A:8. These rules shall be in compliance with RSA 541-A:7 if the wording is consistent with the language of the corresponding National Association of Insurance Commissioners regulations.

166:6 Section Heading Amended. The section heading of RSA 417-C:1 is repealed and reenacted to read as follows:

417-C:1 Grounds for Cancellation.

166:7 Notice of Cancellation. Amend RSA 417-C:2, I to read as follows:

I. No notice of cancellation of a fire, [~~casualty,~~] marine, [~~or~~] multi-peril, ***casualty, or liability*** policy, unless otherwise provided and controlled by RSA 417-A or 417-B, shall be effective unless mailed or delivered by the insurer to the named insured at least 60 days prior to the effective date of cancellation; provided, however, that where cancellation is for nonpayment of premium or substantial increase in hazard, at least 10 days' notice of cancellation shall be given. In all instances, the reason or reasons for cancellation shall accompany or be included in the notice of cancellation. An insurer shall not be held liable in any claim or suit for damages arising solely from the insurer's compliance with the requirement that the reason for cancellation be specified. This section shall not apply to workers' compensation policies.

166:8 Salary Adjustment; Health Care Statistician. Amend RSA 94:1-a, I by:

I. Deleting in group M the following: health care statistician.

II. Inserting in group K the following: health care statistician.

166:9 Effective Date. This act shall take effect 60 days after its passage.

(Approved: May 23, 2000)

(Effective Date: July 22, 2000)

LBAO

00-2309

12/15/99

**SB 394-FN - FISCAL NOTE**

AN ACT making miscellaneous changes in the insurance laws.

**FISCAL IMPACT:**

The Department of Administrative Services has determined this bill will decrease state restricted revenue and expenditures by $11,865 in FY 2001 and by $11,966 each year thereafter. There will be no fiscal impact on county and local revenue or expenditures.

**METHODOLOGY:**

The Department of Administrative Services has assumed the change from salary group M, ($59,454) max to salary group K, max ($50,320) for the vacant Health Care Statistician position will becom effective July 1, 2000. The reduction includes reduced benefits calculated at 31% and an adjustment t correspond with the salary increase effective October 1, 2000.

The Insurance Department is a self-funded agency, therefor, the above impact will be on restricte revenue and expenditures.

# Committee Minutes

**Date:** Januarry 11, 2000
**Time:** 10:08am
**Room:** State House, Room 103

The Senate Committee on **Insurance** held a hearing on the following:

**SB394-FN** *making miscellaneous changes in the insurance laws.*

Members of Committee present: *Senator Wheeler, Chairman*
*Senator Eaton*
*Senator Fraser*
*Senator Squires*

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The Chair, Senator **Katie Wheeler**, opened the hearing.

**Senator Katherine W. Wheeler, D. 21:**
I would like to open the hearing on SB394 "making miscellaneous changes in the insurance laws" and call on the Prime Sponsor, Senator Leo Fraser.

**Senator Leo W. Fraser, Jr., D. 4:**
Thank you Madame Chairman, Members of the Senate Insurance Committee. For the record I am Senator Leo Fraser and I bring to you this morning SB394, which makes miscellaneous changes in the insurance laws.

For a little bit of history, Madame Chairman, we had SB103. 103 and a lot of the material I will allude to this morning were in the original 103. You may recall that there was a pay increase for a non-classified employee in that bill and the Governor in her "wisdom", she vetoed our bill on us. So, we are back this year with out that pay increase. A lot of what's contained in 394 was originally in 103.

The reason by the way, if I recall correctly, I think the reason why the Governor vetoed the last one, if I recall her message it was to the effect that a study of the non-classified system was under way.

*(Senator Fraser continues)*

And she felt that this flew in the face of what that committee was trying to do. So that's why she vetoed the bill and her veto was upheld. But as I go through the bill, this bill, I will refer to those portions that were originally in 103 and then I will also talk about the new section.

Section I of 394 corrects a typo, inadvertently in prior law the language is qualified institution, the word "financial" was left out. And all section I of the bill does is include in the amended language "qualified financial institutions". That was also in 103, Madame Chairman.

Section II, which was in 103, the State has always felt that they had the authority to copy documents during the course of a financial and *(inaudible)* examinations of an insurer. However one company try to not let that happen, so in order to make clear that during the course of an examination the State of New Hampshire, the Insurance Department, is entitled to copy any documents that they feel is necessary in order to fulfill their responsibilities.

What this law does is enabling legislation and allows the Department to do what they've always done except that there was on company that tried to object to that practice. That too is in 103.

Section III of the bill is new. What it does, Madame Chairman, is allows a person who feels aggrieved by a decision of the Insurance Commissioner, rather than have to go back to partition for a rehearing they can seek redressing the courts. In other words, under the current law if there were a decision, anybody who feels aggrieved by it they'd have to go back first and partition for a rehearing. If this language is adopted that would no longer be necessary they could immediately seek redress from some other source.

Section IV of the bill is language that was also in 103. As you recall under the SB77 I think, exclusivity of contracts was outlawed. The law was still on the books where the HMO's had to report biannual bases on any exclusive contract that they might have consummated. Obviously that has become a non-issue with the advent of the fact that they no longer can engage in exclusivity contracts.

So, what this does is it disallows the requirements of HMO's to have to fill a report to the State. The only thing for keeping that in there is for any purpose the Insurance Commissioner should request it from any carrier. The burden would be on the Insurance Department to determine that they would want some company to report with an update if they engaged in any exclusive contract. That was also in 103.

*(Senator Fraser continues)*

Section V is new and this is a section, Madame Chair, that maybe controversial. To give you a little bit of background, the National Association of Insurance Commission devotes all of their time in promulgating new Legislation. It's a very long, very painful in-depth process.

The amount of bills coming out NAIC, the reason they do it at the National level is to save us the necessity of having to explore every word in bills that have been promulgated. What this bill would do would be to allow the Department to implement the model bill coming in, with the blessings of course of the Legislature, to implement any model bill coming out of the NAIC without the necessity of going through Rules.

I guess for me, Madame Chair, it's difficult to explain what goes on but an idea that is born in the NAIC, that it takes a long time. All parties of interest from carriers, the insurance company, the public, the bar, everyone is involved in the process of creating this new model bill. It's not done in a closet this is done in an open session. Sometimes it's a year sometimes even two years in order to get something put together that everybody can buy in to.

And all this bill does, I use the word "all" because it's an important issue. But what the bill does is allow the State to enforce the law, to implement the law without the necessity of having the whole thing re-reviewed by Rules. And if you've served on Rules at all, Madame Chairman, you know that that's a very, a rather long and painful process. I often tell the story about the fact that I was on Rules and one of the first hearings I can remember walking around saying, "free at last, free at last".

It's a difficult process and what they sometimes do is they try to pick apart a piece of Legislation that's been deliberated in tremendous depth over the many, many months by some subcommittee of the NAIC. And as I say I suspect that some of the people behind me are going to object to allowing this to happen. But I think it's important. I think it's a good idea.

Section VI and VII of the bill, Madame Chairman, what happen was that in 417:B and C, I think that is, is the title is that, let me see if I can get this straight for you. The heading of the title is "property and casualty, multi-peril and marine", I think. Inherent in the casualty is liability. The Supreme Court, in looking at those 2 laws, they just took the heading and liability, medical malpractice liability was not listed so they said this was not subject to the law. It had to do with cancellation and maybe somebody from the Department can be more specific about it.

*(Senator Fraser continues)*

But any rate, all the Supreme Court did was take the title of those 2 Chapters and they said that specifically the reference to liability was not there. Even though the industry as an industry has always interpreted the word casualty to mean all liability or property. And so what this bill does is it changes the title to "fire, casualty, oh I'm sorry. Previously it was "fire, casualty, marine, or multi-peril". Under the terms of the bill it would become "fire, marine, multi-peril, casualty, or liability". It's just to be sure there is no misunderstanding in the future.

The last section of the bill, Madame Chairman, is something we also had in 103; we were reducing if you will the classification of the health care statistician. That person is now categorized as a class M and under the terms of the bill that classification would be rolled back to class K. That's what it is. "Inserting in group K the health care statistician".

Madame Chair that's what this bill is all about. As I say a lot of it we passed a year ago except that because of the salary increase for the actuary, I believe it was, that the Governor determined to veto it and her veto was upheld. So in 394 is most all of the things that were in 103 plus these 2 new sections. I would be glad to answer any questions.

**Senator Katherine W. Wheeler, D. 21:**
Thank you very much Senator Fraser for you comprehensive explanation of the bill. Just for the record, after the Governor vetoed SB103, I did call the Insurance Commissioner to see if she would like use to over turn the veto. Because, I think the Committee would have been willing to do that had the Insurance Commissioner asked for it. And Commissioner Rogers said "no" that parts of the bill could be implemented at a future date. So, I don't want you to think that we didn't consider overturning the veto. Are there any questions for Senator Fraser? Senator Squires.

**Senator James W. Squires, D. 12:**
Senator Fraser, are there any other examples in State Government where the Department is empowered to implement a set of rules without the process of going through the Rules Committee?

**Senator Leo W. Fraser, Jr., D. 4:**
I'm going to guess that there are. I don't know for sure Senator but my guess is DOT but I am not sure. It just strikes me that somewhere, that's a good question. I don't know the answer to it but it strikes me that back down the road we learned that DOT does not have to bring certain issues to the Rules but I'm not sure of that.

**Senator Katherine W. Wheeler, D. 21:**
Follow-up question?

**Senator James W. Squires, D. 12:**
Well it's more a comment but listening to that I have no doubt that it's true. But where, is it so that the bill asks us that the Rules process is broken so instead of fixing it we will just by-pass. And thus every other Department is subjected to this difficult examination. They're playing by one set of rules but for whatever reason; given this set of conditions this Department plays by a different set of rules. Is that what the bill is doing?

**Senator Leo W. Fraser, Jr., D. 4:**
No, only to that extent that model bills being promulgated by the NAIC. You know I was active in that organization many years but things haven't changed Senator. It takes so long and it is such a long in-depth examination of an issue before a model bill comes out and it's circulated among the several States. And what we find here in New Hampshire is that even though there's been a tremendous amount of input from every segment of the community who may have some interest in that particular issue.

We get it here to New Hampshire then the Rules Committee decides that they're gonna kind of pick it apart. And I think that for the purpose of certain Legislation this is not a good idea only because your trying to, in many ways we're still trying to have some symmetry between New Hampshire, Maine and Vermont on certain issues. Especially on issues having to do with proposed Legislation issued by the NAIC. It's hard for me to explain any further than that.

Except that having lived with that process for several years, it seems that the amount of time that's devoted to examining an issue, all the Insurance Department says is "look if we come up with some issues of our own that have to be Legislated here in New Hampshire that's one thing". We certainly expect that to go through the rules process.

*(Senator Fraser continues)*

It's only in that very small group of proposed bills that come out of the NAIC that for purposes of continuity among the States among other things. But more important to me, personally, was the fact that the exhausted study that's done of that issue at that level; some of those committees that are study a particular issue in the NAIC they meet 4 or 5 times a year. But those bills probable take 2 maybe 3 years before they become something that everybody can buy into. It's a long process and all I am suggesting is so far as NAIC model legislation is concerned. I think it's a pretty good idea.

**Senator Katherine W. Wheeler, D. 21:**
Further questions? I have a question Senator Fraser on that same Section of bill. I thought I heard you say in your testimony that all though it wouldn't go to Rules it would come through the Legislature?

**Senator Leo W. Fraser, Jr., D. 4:**
Oh, my goodness, yes.

**Senator Katherine W. Wheeler, D. 21:**
So could you describe what would happen?

**Senator Leo W. Fraser, Jr., D. 4:**
Sure.

**Senator Katherine W. Wheeler, D. 21:**
It would be proposed as a regular bill?

**Senator Leo W. Fraser, Jr., D. 4:**
It's just a regular bill, Madame Chairman and if we embrace the bill without making any changes hypothetically. And we pass the bill, the Governor signs it, it becomes law then obviously, in most instances, then the Department, the Insurance Department has to go to Rules.

What we are saying is that the bill itself should be self supporting and they shouldn't have to have that second level of scrutiny on a piece of Legislation. As I say the only reason I can support it is because I lived with that process for a number of years. And I know what it takes to get a bill, promulgated by the NAIC.

*(Senator Fraser continues)*

And then to have we in the Rules Committee here in New Hampshire to start to pick it apart, almost a suggestion that this was done behind close doors or something, the hearings, the protracted hearings, the amount of work that goes into it. And the industry, who will probably object to having rules waved so far as NAIC model, they're a major player in helping to develop this information at the NAIC. I don't know if that answers your question.

**Senator Katherine W. Wheeler, D. 21:**
Oh, it does answers the question, thank you Senator Fraser but it also raises another question. If the legislature picks it apart and alters it so that it's not exactly the same as the model bill. What happens under those circumstances?

**Senator Leo W. Fraser, Jr., D. 4:**
Nothing would happen the way the language is. But if the bill becomes something different then what was promulgated by the NAIC; dramatically different a technical change that's one thing, but then of course obviously then it should go to Rules. It's just that sometimes we pass NAIC model legislation, especially in critical issues because of the fact that it is critical. I'm going to be offering to the Committee sometime in the future a Risk-based Capital bill, that's a NAIC model. A very important bill but very technical.

To have that bill changed or altered probably wouldn't be the best thing in the world to do. But there are other bills obviously that I'm going to be introducing to this Committee that the Committee could, in all sincerity, could think that this is got to be fixed. But all I'm just referring to are those bills coming in from the NAIC such as the bill, the model on Risk-based Capital. We think that bill, if its going to be passed, should be passed it should be passed in tack.

**Senator Katherine W. Wheeler, D. 21:**
Thank you very much. Are there further questions for Senator Fraser? See none, thank you for your testimony. Alex Feldvebel.

**Alex Feldvebel – Department of Insurance:**
I am going to reduce my comments to just a few because I didn't realize Senator Fraser was so thoroughly informed on the minutiae of this bill. He saved me a lot of work.

Let me just address these couple of components of the bill that are new. The most significant being this Rule making exemption for model, NAIC model rules. The basic purpose of it is to promote uniformity from one State to another. It's a problem that a lot of work goes on at the NAIC level developing these rules, partially for the purpose of achieving uniformity of standards of one State to the next. And there is great benefit to be achieved form that. And then having that rule have to be twisted around at the State level just mainly due to kind of technical drafting requirements that are in our rule making manual. That's the main problem.

And what we're thinking here is that there are, in the case of NAIC model rules there are sufficient protections in the process that NAIC goes through for developing those rules. And I know because I have participated in some of the work committees. For example in the process of developing the external grievance rules and law that there is sufficient protects to insure that the standards are appropriate and are achieving the governmental purpose that was intended. That it's not necessary to repeat that at the State level.

So, for stuff in this instance where we have that kind of input that you want occurring in the NAIC process for developing model rules, that the gain to be achieved from going through the rule making process at the State level isn't worth it. Compared to what you loose in terms of uniformity of standards.

Let me just mention a couple of other things. For example, let's take the external grievance process, might be an example, it's not as if the Legislature wouldn't have their input. They set the standard in terms of deciding whether they want to embrace the model law that's developed at the NAIC level. In fact, what I think this Legislature is about to do, is to pass Legislation that is consistent with the NAIC model for external grievance. Then it would be a relatively simple matter to develop a rule implementing that model law.

The other point that I want to make is that this doesn't mean we wouldn't, as an agency, undergo a hearing process for our rule. We would still develop our rule and publish it to the world and have a hearing on the rule. So there would that process still going on. It wouldn't be subject to the finally review by the Rule making committee.

*(Alex Feldvebel continues)*

As to the questions whether there are other exemptions? I think that there are. In fact this amendment basically lists, adds NAIC model law to a list of exemptions. But I am not actually sure what the other exemptions are. Whether there are any others in the law that are exactly analogues to this. We know that other States have taken this step of giving an exemption to the rule making process for NAIC model rules.

The only other thing I wanted to mention is on the Section III. This is an issue that sort of came up in amending the old company statute. This is really an issue that came up in our approval process for the Anthem transaction. We noticed that the right of appeals for that administrative process as is currently written in the law, is a trial of *novo* in Superior Court and then an appeal to the Supreme Court.

And we were thinking that because of the nature of this transaction that the requirement for administrative expertise in the review and the extra delay that would be attended to, for a trial of *novo* in Superior Court that it made much more sense to treat it the way most other agency adjudicative decisions are treated. Which is to have a 541 appeal directly to the Supreme Court from the agency decision. It makes for a more expedited treatment of the decision making process.

**Senator Katherine W. Wheeler, D. 21:**
Are there questions? See none, thank you very much Alex. Is the Committee wishing to make a decision at this point on this bill, with an Executive Session? Or would you prefer to give it some more thought?

**Senator James W. Squires, D. 12:**
I would like to give it some more thought.

**Senator Katherine W. Wheeler, D. 21:**
So, I will delay any Executive action on this into we've had a chance for further consideration.

**Senator James W. Squires, D. 12:**
I would like to pursue this question of, are there other examples consistent with other areas and so forth. I would like somebody to inform me about that.

**Senator Katherine W. Wheeler, D. 21:**
Alex or Shannon.

**Shannon Gorrell – Legislative Aide:**
It's here in 541:A;21 exceptions; there is a list.

**Senator Katherine W. Wheeler, D. 21:**
Well we don't have it right this minute because we won't be making a decision on it. Thank you Shannon. Actually we do have a couple of minutes before the next bill is scheduled to start. Is what's in the Statute be sufficient information or do you think we should ask about seeing other exemptions?

**Alex Feldvebel:**
Yes, I could look into that and also maybe get more information on which other States apply this exemption...*(inaudible, in the back of room).*

**Senator Katherine W. Wheeler, D. 21:**
That would be helpful. Thank you very much. I will close the hearing on **SB394**.

**Hearing closed on SB394-FN at 10:34am.**

*Respectively Submitted,*
*Linda Brosseau, Senate Secretary*

# Speakers

# SENATE INSURARNCE COMMITTEE

Date January 11, 2000 Time 10:05am Public Hearing on SB394-FN

Appearing in FAVOR: (Please print) Please check box at left to speak.

| Speaking? | Name | Address | Representing |
|---|---|---|---|
| ☑ ✓ | Senator Lou Jrasa | | Dist 4th |
| ☒ | Alex Feldvebel | | DOI |
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# Testimony

ANNOTATIONS

**Cited**

Cited in Appeal of Dell (1995) 140 N.H. 484, 668 A.2d 1024.

**541-A:20 Initiating Rulemaking Prior to Effective Date of Statutory Authority.** After the enactment and before the effective date of any statute granting rulemaking authority, the agency to whom such authority is granted may initiate procedures to adopt such rules; provided that the effective date of the rule, under RSA 541-A:14, IV or RSA 541-A:19, X shall not occur before the effective date of the act granting statutory authority for that rule.

HISTORY

**Source.** 1994, 412:1, eff. Aug. 9, 1994.

**541-A:21 Exceptions.**

I. Authority granted under the provisions of the following statutes shall be exempt from RSA 541-A:

(a) RSA 230:53, relative to the use of limited access highway facilities.

(b) RSA 236:1, II, relative to regulating, permanently or seasonally, the use of certain class I, II and III highways by the posting of traffic control stop signs, devices, and signals thereon.

(c) RSA 265:22, relative to painted marking of highways.

(d) RSA 265:62, relative to the establishment of state speed zones.

(e) RSA 265:71, relative to stopping, standing, or parking and the placing of signs relative thereto on certain highways.

(f) RSA 236:9, relative to excavation permits.

(g) RSA 236:13, relative to driveway permits.

(h) RSA 231:161, relative to licensing utility poles and appurtenances within public highways.

(i) RSA 266:18-c, V, relative to bridge weight limits.

(j) RSA 651-A:22, II, relative to credit for good conduct of prisoners.

(k) RSA 111, relative to the state guard.

(*l*) RSA 284:12, IV, relative to the sale of pari-mutuel pools as authorized under RSA 284:22 and RSA 284:22-a.

(m) RSA 237:5, II; 237:9; 237:17; 237:24, I; 237:34; and 237:40, relative to the establishment of toll rates for turnpikes.

(n) RSA 12-G, relative to the Pease development authority.

(*o*) RSA 375-A:14, RSA 375-B:17 and RSA 376:21, relative to a single state registration system.

(p) RSA 268 and RSA 261:72-a, V, relative to motor vehicle emissions.

(q) RSA 374:8, relative to a uniform system of accounts for regulated utilities.

(r) RSA 21-P:27, II(a) and (b), relative to educational, training and evidentiary standards for fire service personnel and curriculum requirements for schools training fire service personnel.

(s) RSA 188-F:26, V, relative to educational, training and evidentiary standards and curriculum requirements for police and corrections personnel and courses and tuition students at such courses.

(t) RSA 260:65-b, relative to the multi-jurisdictional fuel tax agreement.

II. Rules adopted under RSA 394-A:7 shall be exempt from committee review under RSA 541-A:13.

III. Rules adopted under RSA 161:4, VI, relative to rates of reimbursement to providers of medical services under the medical assistance program, shall be exempt from the requirements of RSA 541-A:5 through RSA 541-A:14.

IV. Rules adopted under RSA 125-F:5, IV and V, RSA 125-F:7, RSA 125-F:8, RSA 125-F:8-a, III, and RSA 125-F:22, III, to conform to 10 CFR and 21 CFR shall be exempt from the uniform system of numbering and drafting rules required by 1994, 412:52 and the drafting and numbering requirements of RSA 541-A:8. These rules shall be in compliance with RSA 541-A:7 if the wording is consistent with the language of the corresponding federal regulations.

V. Requirements on tax filing forms as specified in RSA 21-J:13-a shall be exempt from RSA 541-A.

HISTORY

**Source.** 1994, 412:1. 1995, 155:16, eff. July 31, 1995; 179:2, eff. Aug. 4, 1995. 1996, 164:5, eff. Aug. 2, 1996; 292:39, eff. June 10, 1996.

**Codification.** Pursuant to 1994, 389:21, the amendment to former RSA 541-A:10 by 1994, 389:5, eff. June 9, 1994, which added par. I(r), was incorporated in this section.

**Amendments—1996.** Paragraph I(t): Added by ch. 292.

Paragraph V: Added by ch. 164.

**—1995.** Paragraph I(s): Added by ch. 155.

Paragraph IV: Added by ch. 179.

**Construction of amendments—1996.** 1996, 292:40, eff. Jan. 1, 1997, provided: "Sections 36-39 [which amended RSA 260:65-b, RSA 260:65-c, II, and 541-A:21, I] and paragraph XI of section 41 of this act [which repealed RSA 260:65-C, III] shall be construed so as to permit the commissioner of safety either to effectuate the state's entry into the international fuel tax agreement or to maintain the state's participation in the multi-jurisdictional fuel tax agreement under RSA 260:65-b. If the state becomes a member of the international fuel tax agreement, any provisions of RSA 260 which relate to the weight or type of vehicle taxable under the multi-jurisdictional fuel tax agreement and which conflict with the international fuel tax agreement shall be superseded by the international fuel tax agreement provisions."

**Prospective repeal of paragraph IV.** Pursuant to 1995, 179:3 par. IV of this section is repealed effective on July 1, 1999.

CROSS REFERENCES

Authority for the adoption of rules relating to the militia, see RSA 110-B:8-a.

### 541-A:22 Validity of Rules.

I. No agency rule is valid or effective against any person or party, nor may it be enforced by the state for any purpose, until it has been filed as required in this chapter.

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preparation and publishing of the compilation of agency rules or any portion of it, or may certify a commercially prepared version of the compilation. Any version or portion of the code published under this section shall conform to all requirements of this chapter.

* * *

HISTORY

**Source.** 1994, 412:1, eff. Aug. 9, 1994. 1998, 346:1, eff. Aug. 25, 1998.
**Amendments—1998.** Rewrote par. I and added pars. I-a and I-b.
**Applicability—1998 amendment.** 1998, 346:2, eff. Aug. 25, 1998, provided that the amendment to this section by 1998, 346:1, shall apply to rules filed and effective after Aug. 25, 1998.

### 541-A:16 Rules; Filing Required.

I. In addition to other rulemaking requirements imposed by law, each agency shall:

* * *

(b) Adopt rules of practice setting forth the nature and requirement of all formal and informal procedures available, including:

* * *

(2) Rules governing adjudicative proceedings pursuant to RSA 541-A:30-a; and

* * *

HISTORY

**Source.** 1994, 412:1, eff. Aug. 9, 1994. 1998, 298:1, eff. July 1, 1998.
**Amendments—1998.** Paragraph I(b)(2): Substituted "proceedings pursuant to RSA 541-A:30-a" for "hearings".

### 541-A:19 Interim Rules.

ANNOTATIONS

Cited
Cited in Appeal of Dell (1995) 140 N.H. 484, 668 A.2d 1024.

### 541-A:21 Exceptions.

I. Authority granted under the provisions of the following statutes shall be exempt from RSA 541-A:

* * *

(p) [Repealed.]

* * *

(u) RSA 162-A, relative to the business finance authority.





(v) Rules adopted under RSA 195-D, relative to the New Hampshire health and education facilities authority.

(w) RSA 485:16-b, II relative to limits on the concentration of methyl tertiary butyl ether in gasoline.

* * *

HISTORY

**Source.** 1994, 412:1. 1995, 155:16, eff. July 31, 1995; 179:2, eff. Aug. 4, 1995. 1996, 164:5, eff. Aug. 2, 1996; 292:39, eff. June 10, 1996; 1997, 329:16, eff. Oct. 1, 1997. 1998, 207:9 IV, eff. June 18, 1998. 1999, 253:17, eff. July 9, 1999; 313:3, eff. July 16, 1999.
**Amendments—1999.** Paragraph I(v): Added by chs. 253 and 313.
—**1998.** Paragraph I(p): Repealed.
—**1997.** Paragraph I(u): Added.
**Prospective repeal of par. IV.** 1995, 179:3, which is noted in the main volume and provided for the repeal of par. IV of this section effective on July 1, 1999, was repealed by 1998, 121:1, eff. Aug. 1, 1998.
**Redesignation of par. I(v).** Paragraph I(v), as added by 1999, 313:3, was redesignated as par. I(w) pursuant to 1999, 313:4, eff. July 16, 1999.

### 541-A:30 Agency Action Against Licensees.

* * *

III. If the agency finds that public health, safety or welfare requires emergency action and incorporates a finding to that effect in its order, immediate suspension of a license may be ordered pending an adjudicative proceeding. The agency shall commence this adjudicative proceeding not later than 10 working days after the date of the agency order suspending the license. A record of the proceeding shall be made by a certified shorthand court reporter provided by the agency. Unless expressly waived by the licensee, agency failure to commence an adjudicative proceeding within 10 working days shall mean that the suspension order is automatically vacated. The agency shall not again suspend the license for the same conduct which formed the basis of the vacated suspension without granting the licensee prior notice and an opportunity for an adjudicative proceeding.

HISTORY

**Source.** 1994, 412:1, eff. Aug. 9, 1994. 1999, 331:1, eff. Sept. 14, 1999.
**Amendments—1999.** Paragraph III: Inserted the third sentence.

### 541-A:30-a Rules for Adjudicative Proceedings.

I. Subject to paragraph V, each agency shall adopt rules pursuant to RSA 541-A governing the nature and requirement of all formal and informal procedures available in an adjudicative proceeding.

II. The attorney general, in consultation with agencies that conduct adjudicative proceedings, and with the approval of the director of the office of legislative services, shall draft proposed rules on model procedures relative to adjudicative proceedings and request a fiscal impact statement

# Committee Report

# STATE OF NEW HAMPSHIRE

# SENATE

# REPORT OF THE COMMITTEE

Date:

THE COMMITTEE ON Insurance

to which was referred Senate Bill 394-FN

AN ACT making miscellaneous changes in the insurance laws.

VOTE: 8-0

Having considered the same, report the same without amendment and recommend that the bill: **OUGHT TO PASS.**

Senator Leo W. Fraser, Jr.
For the Committee

# SB394 Docket

Next|Previous|Results List|Bill Status

**Bill Title:** making miscellaneous changes in the insurance laws.

| Date | Body | Description |
|---|---|---|
| **1/5/00** | **S** | Introduced and Ref. to Insurance; SJ Convening Day, Pg.12 |
| **1/6/00** | **S** | Hearing, Jan. 11, 10:05 a.m., Room 103, SH; SC1, Pg.3 |
| **3/13/00** | **S** | Committee Report Ought to Pass; 3/16/00, SC17, Pg.3 |
| **3/16/00** | **S** | Ought to Pass, MA, VV; OT3rdg MA, VV; SJ 6, Pg.182 |
| **3/21/00** | **H** | 03/09/2000 Introduced and ref to Commerce; HJ26, p795 |
| **3/21/00** | **H** | Copy to Chairman on 3/21/2000 due Early e |
| **3/30/00** | **H** | Hearing Apr 4 2:00 RM302,LOB |
| **4/11/00** | **H** | Subcom Work Session Apr 12 9:30 RM302,LOB |
| **4/12/00** | **H** | (Subcom: Reps Francoeur, M F Clark & Marshall) |
| **4/12/00** | **H** | Maj Report OTP/AM for Apr 20 (vote 12-0;CC) |
| **4/12/00** | **H** | Prop Comm Am{4114}; HC32, p1032-1033 |
| **4/20/00** | **H** | Passed with Am (Cons Cal by 2/3VV); HJ37, p1131-1132 + 1187 |
| **4/27/00** | **S** | Sen. Wheeler concur with House Amendment{4114}, MA, VV; SJ 12, Pg.333-334 |
| **5/4/00** | **H** | Enrolled; HJ45, p1363 |
| **5/11/00** | **S** | Enrolled Bill; SJ 14, [ See Perm. Journal ] |
| **5/23/00** | **S** | Signed by the Governor on 5/23/2000 Eff: 7/22/2000 Chap: 0166 |

**Docket Abbreviation Explanations

Next|Previous|Results List|Bill Status